

TOWN OF LUNENBURG BOARD OF HEALTH REGULATIONS

ARTICLE I: DEFINITIONS

The following words as used in these Regulations, unless a different meaning is required by the context, or as specifically prescribed, shall have the following meanings:

- a) **"Board of Health"** - shall include the Board, Department or officer having like powers and duties in cities and town.
- b) **"Bedroom"** - as defined in Title 5, 310 CMR 15.002; definitions (*See Article IV, Section 4*).
- c) **"Agent"** - The Nashoba Associated Boards of Health serving as the agent for the Board of Health, as provided by Chapter III, Section 27A.

ARTICLE II: PETITIONS AND PERMITS

SECTION 1. All petitions to this Board must be in writing, duly signed and all permits granted by this Board must be in writing duly signed by at least a majority of the Board.

ARTICLE III REFUSE DISPOSAL

SECTION 1. DEFINITIONS

Refuse - All combustible and non-combustible waste other than garbage and dead animals, considered to be rejected and worthless matter, either domestic or commercial.

Person - Any individual, partnership, association, firm, company, corporation, department, agency, group or any other entity responsible in any way for an activity subject to these regulations.

SECTION 2. No person shall deposit refuse of any type on premises other than his own, within the Town. It shall be unlawful for any person to throw, discard or place any refuse and/or garbage of any type along the roadway.

SECTION 3. No person shall transport into this Town, or through this Town, any refuse and/or garbage of any type without first obtaining a permit.

SECTION 4. Whoever violates any provision of Sections 2 and 3 of Article I shall, in cases not otherwise provided for, forfeit and pay for each offense a fine of one hundred dollars.

SECTION 5. Except when otherwise provided by law, prosecution for offenses under Article III, Sections 2 and 3 inclusive, may be made by any member or members of the Board of Health and/or its duly appointed agents, or any constable or police officer of the Town of Lunenburg.

SECTION 6. No Individual or Company may engage in the commercial collection of rubbish, trash, garbage or other offensive substances within the Town of Lunenburg without obtaining a Trash

Removers Permit from the Lunenburg Board of Health.

Permit Criteria

- A: Must have current Disposal Site Permit.
- B: Must have equipment normally associated with Contract Rubbish Disposal.
- C: Must have capability to institute and maintain Recycling program.
- D: Must have liability insurance.
- E: Applicant must be in compliance with all applicable State and Federal regulations and hold such permits as required by said laws.
- F: Must have paid the annual license fee.

Permit Life and Renewal

Permits will be valid from the date of issue until December 31, of the same calendar year. Renewal applications must be made no later than December 1 to insure uninterrupted operation. A copy of the permit must be kept in each permitted vehicle and must be available for inspection.

Fees

Permit fees will be set by the Lunenburg Board of Health and modified from time to time as warranted.

ARTICLE IV: SEWAGE DISPOSAL

SECTION 1. Fees are charged for testing, plan review and permit issue and inspection for each facility on which a new sewage disposal system is proposed. The fee shall be paid to our Agent for these services.

SECTION 2. All soil absorption systems constructed hereafter, unless otherwise specified by the Board of Health, shall not be located less than one hundred (100') feet from any water course (streams, brooks, rivers, ponds) or bordering vegetative wetland (see Title 5, 301 CMR 15.211). Furthermore no wetlands shall be altered or displaced in order to meet the requirements of the Lunenburg Board of Health Regulations.

SECTION 3. Percolation test and deep observation hole must meet specific design criteria and time limits. In accordance with 310 CMR 15.100 (1, 2) soil evaluation will be used to determine groundwater. When a determination of groundwater is not possible using soil evaluation, criteria (b) or (c) will be used. The bottom of the proposed leaching area, at all points, must be designed at least:

- (a) Four (4') feet above the estimated water table as determined by soil elevation.

(b) Five (5') feet above the highest ground water elevation as noted when the test is taken during March 1 - April 30.

(c) Six (6') feet above the highest ground water elevation as noted when the test is taken during May 1 - May 30, and February 1 - February 28.

If soil evaluation can, in the opinion of both the permit applicant's engineer and the Board's Agent, determine groundwater out of season on a specific site, this may be accepted in lieu of actual observation of high groundwater. If disagreement occurs, the groundwater level as determined by the Board's Agent shall take precedence in all cases and will be the elevation used in the design of the system.

No system shall be located less than a distance of twenty-five (25) feet from a failed percolation test hole.

SECTION 4. Whenever an existing dwelling is to be expanded, either by an increase in the footprint of the structure or by a reconfiguration of the interior layout, determination of any potential increase in the septic flow resulting from the modification will be determined by use of the appropriate formula for the determination of bedrooms within 310 CMR 15.002 **as it applies to the dwelling as it exists prior to the planned modification.**

- a. For existing structures in which the total room count is 8 or less a bedroom shall be defined as a room providing privacy consisting of all the following:
 1. floor space of no less than 70 square feet;
 2. for new construction, a ceiling height of no less than 7' 3";
 3. a ceiling height of no less than 7' 0"
 4. an electrical service and ventilation
 5. and at least one window.
- b. For existing structures in which the total room count is 9 or more the number of bedrooms will be determined by dividing the total number of rooms by two, then rounding down to the next whole number.

SECTION 5: Offset to Septic Systems:

1. No structure may be constructed or altered in such a manner that any part of the foundation will be less than 20 feet from the leach area (10 feet for slab foundation) and 10 feet from any other component of the sewage disposal system.
2. No structure will be constructed or altered in such a manner that will cause it to extend over any component of the sewage disposal system.
3. No inground swimming pool will be constructed within 20 feet of the leach area and 10 feet of any other component of the sewage disposal system.

SECTION 6. Before a sewage disposal works construction permit may be issued, a lot must be inspected by the Board of Health or its agent when it is clear of snow.

SECTION 7. Deep observation holes must be completely refilled within twelve (12) hours of being witnessed by the Board of Health or its agent.

SECTION 8. The sewage disposal system must be located on the same lot as the facility it is intended to serve; for the purpose of this regulation, a lot shall not be interconnected by an easement or right of way.

SECTION 9. The length of pipe between the septic tank and the distribution box shall not exceed one hundred (100) feet unless additional engineering information is provided to justify the additional length.

SECTION 10. The area between trenches shall not be used for future expansion of a system.

SECTION 11. Temporary Facilities - When no approved sanitary facilities exist on the site, all builders, contractors and others (whose facility use would cause the use of port-a-potties), shall provide temporary sanitary facilities on site until such use is no longer needed. The use and location of these temporary sanitary facilities shall be approved by the Board of Health prior to their placement.

SECTION 12. Any dwelling used for seasonal occupancy only, may not be occupied year round until a sewage disposal system meeting the requirements of Title 5, 310 CMR 15.000 and the Lunenburg Board has been installed or the system in use can be shown to be in compliance with all such requirements of all applicable regulations.

SECTION 13. All work or repairs to sewage disposal systems, emergency or otherwise, shall require prior approval of the Board of Health.

SECTION 14. Subsurface disposal systems shall not be constructed until a building permit has been issued.

SECTION 15. Mounding - When an individual proposes a sewage disposal system in excess of 2,000 gallons per day, groundwater mounding analysis will be required as part of the design information submitted to obtain a Sewage Works Construction Permit.

SECTION 16. Innovative System - To insure maximum environmental protection, any innovative system must be approved by the Board of Health.

SECTION 17. In situations where the 1978 Environmental Code, Title V, applies, the Lunenburg Regulations in effect prior to March 31, 1995 must be met.

SECTION 18. Project Review Fees Special Municipal Account -

1. When reviewing an application for, or when conducting inspections in relation to permits, which are within its legal jurisdiction to review and inspect, the Board of Health may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the said permit. The Board of Health may require that applicants pay a "project review fee" consisting of the reasonable costs incurred by the Board of Health for employment of outside consultants engaged by the Board of Health to assist in the review of a proposed project.

2. In hiring outside consultants, the Board of Health may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Board of Health in analyzing a project to ensure compliance with all relevant laws, ordinances and other regulations such as they relate to the project at hand. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.

3. Funds received by the Board of Health pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board of Health without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the permit.

4. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board of Health with documentation establishing such succession in interest.

5. Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Board of Health has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board of Health shall stand.

ARTICLE V: WATER SUPPLY

New wells shall be in compliance with the Lunenburg Board of Health Well Regulations and approved by the Board of Health.

ARTICLE VI: APPEAL PROCEDURE

SECTION 1. Any person to whom a decision has been served pursuant to any Board of Health Regulation, may request a hearing before the Board of Health by filing within 7 days after the day the decision was rendered, a written petition requesting a hearing on the matter. Upon receipt of such petition, the Board of Health shall set a time and place for such hearing and shall inform the petitioner thereof in writing. The hearing shall be commenced not later than 30 days after the day on which the decision was rendered. The Board of Health, upon application of the petitioner, may postpone the date of hearing for a reasonable time beyond such 30 day period if in the judgment of the Board of Health the petitioner has submitted a good and sufficient reason for such postponement.

SECTION 2. At the hearing, the petitioner shall be given an opportunity to be heard and to show cause why the decision should be modified and withdrawn.

SECTION 3. After the hearing, the Board of Health shall sustain, modify, or withdraw the decision and shall inform the petitioner in writing of its decision.

SECTION 4. Whoever, himself, or by his servant or agent, or as the servant or agent of any other person or any firm or corporation violates any provision of these regulations shall be punished as provided by the General Laws of the Commonwealth of Massachusetts. Each and every violation of the provisions of these regulations shall constitute a separate offense.

SECTION 5. All rules and regulations and any part thereof in conflict with these regulations are hereby repealed and these regulations shall be in full force and effect immediately.

SECTION 6. Should any paragraph, sentence, clause or phrase of these regulations be declared unconstitutional, or invalid for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions thereof.

ARTICLE VII: VARIANCE

The Board of Health may vary the application of any provision of these regulations with respect to any particular case when, in the opinion of the Board, a literal enforcement of the provisions of the regulation would involve substantial hardship to the petitioner, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such regulation.

Adopted		11/26/21
Completely Revised		11/14/50
Article V, Section 5A	Added	7/30/51
Article V, Section 4	Amended	1/18/54
Article V, Sections 3,4,5,6,7	Completely Revised	10/22/56
Article V, Section 11	Completely Revised	8/04/58
Article V, Section 5	Amended	6/22/59
Article V, Section 5	Amended	7/09/59
Article V, Section 6	Amended	6/08/61
Article IV, Sections 1 & 2	Completely Revised	7/12/71
Article VI, Sections 1 - 5	Added	7/12/71
Article IV, Sections 3E & 3F	Amended	8/23/71
Article IV, Section 8	Added	8/23/71
Article V, Section 3	Completely Revised	1/10/72
Article V, Section 3A	Completely Revised	6/12/72
Article IV, Section 8B	Completely Revised	8/23/72
Article V, Section 7	New Paragraph	4/23/73
Article V, Section 7	Paragraph Revised	5/07/73
Completely Revised		8/31/73
Article V, Sections 7,8,9,12	Completely Revised	2/11/74
Article VI, Section 1 - 5	Completely Revised	11/03/75
Article IV, Sections 8A, B & D	Completely Revised	7/12/76
Article I, V, VI	Revised	1/06/86
Article V	Revised	3/10/86
Article V	Amended	3/17/86
Article V	Amended	5/27/86
Article V	Amended	11/24/86
Article V	Amended	6/16/87
Article VIII	Amended	7/12/88
Article V, Section 20	New Section	12/05/89
Article V, Section 21	Added	11/01/91
Article V, Section 13	Eliminated	11/16/92
Article IV, Section 9	New Section	12/03/93
Completely Revised		3/31/95
Article IV, Section 4	New Section	8/26/02
Article IV, Section 5	New Section	8/26/02
Article IV	Renumbered	8/26/02